

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 03-06

WHEREAS, Vanton, U.S. Inc., owner of Cap Plaza has requested to amend the Cap Plaza Commercial Planned Development (CPD) to add 784 square feet of commercial floor area for a total of 6,526 square feet; and,

WHEREAS, the subject property is located at 121 Lenell Road, and the applicant has indicated the property's current STRAP number is: 03-47-24-W1-00007.0010, and the legal description is attached hereto as Exhibit A; and,

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency who have recommended that the Town Council approve the Applicant's request for an amendment which would add 784 square feet of commercial floor area for a total of 6,526 square feet subject to the 9 conditions and 2 Deviations listed in the Staff Report dated February 3, 2002 with the addition of a new condition number 10 to read as follows:

10. The applicant will screen his dumpsters in a manner as now required under the Town's LDC from public view.

WHEREAS a hearing was held and the council considered the following criteria, whenever applicable:

- a. Whether there exists an error or ambiguity which must be corrected.
- b. Whether there exist changed or changing conditions which make approval of the request appropriate.
- c. The impact of a proposed change on the intent of chapter 34 of the LDC.
- d. The testimony of any applicant.
- e. The recommendation of staff and of the local planning agency.
- f. The testimony of the public.
- g. Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.
- h. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- i. Whether urban services are, or will be, available and adequate to serve a proposed land use change.
- j. Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
- k. Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- l. Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

WHEREAS, the town council finds that the requested zoning district complies with:

- a. The Fort Myers Beach Comprehensive Plan.
- b. Chapter 34 of the LDC.
- c. Any other applicable town ordinances or codes.
- d. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
- e. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:
 1. Policies 4-B-4 and 4-C-3 on commercial uses in the "Mixed Residential" category.
 2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "Boulevard" category.
 3. Policy 4-C-4 on building heights taller than the standard height limit.
 4. Policy 4-C-8 on density transfers.
 5. Policy 4-E-1 on pre-disaster buildback.
 6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

WHEREAS all deviations from other provisions of the LDC:

- a. Enhance the achievement of the objectives of the planned development; and
- b. The general intent of this chapter to protect the public health, safety, and welfare will be preserved and promoted.;
- c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
- d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

NOW THEREFORE BE IT RESOLVED THAT:

THE REQUESTED ZONING DISTRICT COMPLIES WITH:

- a. The Fort Myers Beach Comprehensive Plan.
- b. Chapter 34 of the LDC.
- c. Any other applicable town ordinances or codes.
- d. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
- e. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:
 1. Policies 4-B-4 and 4-C-3 on commercial uses in the "Mixed Residential" category.
 2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "Boulevard" category.
 3. Policy 4-C-4 on building heights taller than the standard height limit.
 4. Policy 4-C-8 on density transfers.
 5. Policy 4-E-1 on pre-disaster buildback.
 6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

ALL DEVIATIONS FROM OTHER PROVISIONS OF THE LDC:

- a. Enhance the achievement of the objectives of the planned development; and
- b. The general intent of this chapter to protect the public health, safety, and welfare will

be preserved and promoted.;

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

THE APPLICATION IS APPROVED SUBJECT TO THE FOLLOWING conditions and requirements that are necessary for the protection of the health, safety, comfort, convenience and welfare of the general public and that are reasonably related to the request:

a. Conditions:

1. The development of this project must be consistent with the one page Master Concept Plan entitled "Master Concept Plan Cap Plaza," prepared by Gary F. Muller, AICP, stamped received January 10, 2003 Community Development, last revised December 2002, except as modified by the conditions below. This development must comply with all requirements of the Town of Fort Myers Beach Land Development Code (LDC) at time of local Development Order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. **Schedule of Uses – Existing Building on MCP**

ACCESSORY USES AND STRUCTURES

ADMINISTRATIVE OFFICES

AUTOMATIC TELLER MACHINE (ATM)

BUSINESS SERVICES - GROUPS I AND II

CAMERA SHOP

CLUBS FRATERNAL AND PRIVATE

ESSENTIAL SERVICES - GROUP I

FOOD STORES-GROUP I

HARDWARE STORE

LAUNDRY OR DRY CLEANING - GROUP I

MEDICAL OFFICE

PACKAGE STORE

PERSONAL SERVICES - GROUPS I AND III

PHARMACY

PLACE OF WORSHIP

RECREATIONAL FACILITIES, COMMERCIAL - GROUPS
I AND II

RENTAL ESTABLISHMENTS - GROUP I

RESTAURANTS, STANDARD –ALL GROUPS

SIGNS IN ACCORDANCE WITH SIGN ORDINANCE

SPECIALTY RETAIL SHOPS - GROUPS I AND II

STORAGE, INDOOR

TEMPORARY USES

Schedule of Uses- Proposed Building on MCP

ACCESSORY USES AND STRUCTURES

ADMINISTRATIVE OFFICES

AUTOMATIC TELLER MACHINE (ATM)

BUSINESS SERVICES - GROUPS I AND II

CAMERA SHOP

ESSENTIAL SERVICES - GROUP I

LAUNDRY OR DRY CLEANING - GROUP I

MEDICAL OFFICE

PERSONAL SERVICES - GROUPS I AND III

PHARMACY

PLACE OF WORSHIP

RECREATIONAL FACILITIES, COMMERCIAL - GROUPS
I AND II

RENTAL ESTABLISHMENTS - GROUP I

SIGNS IN ACCORDANCE WITH SIGN ORDINANCE

SPECIALTY RETAIL SHOPS - GROUPS I AND II

STORAGE, INDOOR

TEMPORARY USES

3. Prior to issuance of a building permit, a development order must be submitted including a landscape plan which delineates a Type B buffer along Lenell Road, and meets the current Fort Myers Beach Land Development Code for the remainder of the site landscaping. Any existing sabal palms within the building pad area must be relocated in a horticulturally correct manner onsite.
4. Maximum total gross floor area is limited to no more than 6,526 square feet (5,742 square feet for the Existing One Story Commercial Building and 784 square feet for the Proposed One Story Commercial Building). The total floor area of restaurant use is limited to no more than 729 square feet.
5. Hours of operation of businesses and the use of the sound system within the Cap Plaza CPD are limited to between 8:00 a.m. and 10:00 p.m.
6. Each local development order application must provide a current tally of the square feet for each use approved in all previous development orders.
7. The maximum height of all buildings and structures is limited to 25 feet above base flood elevation as measured to the highest point of an exterior wall, exclusive of the roof system.
8. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.
9. Approval of this rezoning does not give the Developer an undeniable right to

receive local development order approval. Future development order approvals must satisfy the requirements of the Fort Myers Beach Comprehensive Plan.

10. The dumpsters will be screened from public view in a manner consistent with the Lee County LDC.

b. Deviations:

1. Deviation 1 is unnecessary and is WITHDRAWN.
2. Deviation 2 from the requirements of LDC Section 34-2020(5)a.1. that multiple-occupancy complexes with a total floor area of less than 25,000 square feet (excluding restaurants located in shopping centers smaller than 50,000 square feet) provide four spaces per 1,000 square feet is APPROVED to allow a minimum of 31 parking spaces for a maximum of 5,797 square feet of retail and a maximum of 729 square feet of restaurant uses. Of the minimum of 31 parking spaces that must be provided, 10 are required for the restaurant use, and the remaining 21 spaces are required for the remaining 5,526 square feet of retail uses
3. Deviation 3 from the requirements of LDC Section 34-2194(b) that no building or structure be placed closer than 25 feet to a canal or other water body is APPROVED to allow a water body setback of 8 feet for the Proposed One Story Commercial Building from the existing lake.

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Howard Rynearson	aye
Daniel Hughes	aye
Bill Thomas	aye
W. H. "Bill" Van Duzer	aye
Terry Cain	aye

APPROVED this 17th day of March, 2003.

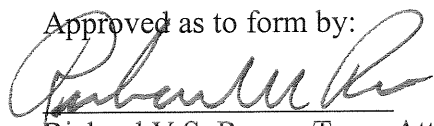
ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Daniel Hughes, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

DCI2002-00057

EXHIBIT "A"

PROPERTY DESCRIPTION

A PARCEL OF LAND LOCATED IN GOVERNMENT LOT 1, SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AS THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AND THE SOUTH LINE OF SAID GOVERNMENT LOT 1; THENCE N.18°34'20"W. FOR 63.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF LINELL ROAD; THENCE N.89°11'00"E. ON SAID NORTHERLY RIGHT-OF-WAY LINE FOR 242.98 FEET TO THE **POINT OF BEGINNING**; THENCE N.00°49'00"W. FOR 199.53 FEET; THENCE N.89°11'00"E. FOR 181.00 FEET; THENCE S.00°49'00"E. FOR 199.53 FEET; THENCE S.89°11'00"W. FOR 181.00 FEET TO THE **POINT OF BEGINNING**

Applicant's Legal Checked

by Jm 2/3/03

Z-

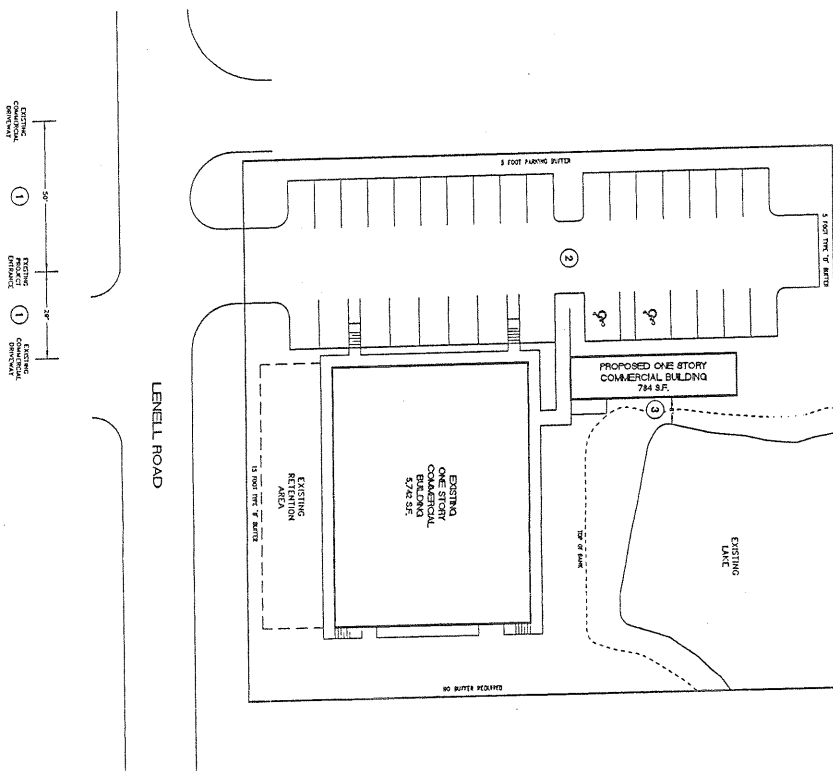
SITE DATA	
TOTAL PROJECT AREA:	0.83 ACRES
COMMERCIAL FLOOR AREA:	6,526 S.F.
EXISTING LAKE AREA:	0.13 ACRES
MAXIMUM BUILDING HEIGHT:	25 FEET
MINIMUM OPEN SPACE:	20 PERCENT

PROPOSED SCHEDULE OF USES - EXISTING BUILDING ACCESSORY USES AND STRUCTURES

ADMINISTRATIVE OFFICES	GROUP I
BUSINESS SERVICES	GROUPS I AND II
CATERING	GROUP I
CLERICAL SERVICES	GROUP I
COMMUNICATIONS	GROUP I
FOOD SERVICES - GROUP I	
LABORATORY OR RESEARCH	GROUP I
MAINTENANCE	GROUP I
MEDICAL OFFICE	GROUP I
RESEARCH	GROUP I
PHARMACY SERVICES	GROUPS I, II AND III
PLANT OR WOODWORK	GROUP I
RECREATIONAL FACILITIES	GROUP I
RENTAL ESTABLISHMENTS	GROUP I
RESTAURANTS - STANDARD	ALL GROUPS
RESTAURANTS - SPECIAL	GROUPS I AND II
STORAGE, INDOOR	GROUPS I AND II
TEMPORARY USES	

PROPOSED SCHEDULE OF USES - PROPOSED BUILDING ACCESSORY USES AND STRUCTURES

ADMINISTRATIVE OFFICES - GROUPS I AND II
BUS AND AUTOBUS RENTAL (MAXIMUM 10 PASSENGERS)
BUS SERVICES - GROUPS I AND II
CATERING - GROUPS I AND II
CATERIA SHOP
ESSENTIAL SERVICES - GROUP I
FURNITURE - GROUPS I AND II
GENERAL CLEANING - GROUP I
MEDICAL OFFICE - GROUPS I AND II
PERSONAL SERVICES - GROUPS I, II AND III
PLACE OF WORSHIP
RECREATION - GROUPS I AND II
RECREATIONAL FACILITIES
RENTAL ESTABLISHMENTS - GROUP I
RESTAURANTS - GROUPS I AND II
SHELTERS - GROUPS I AND II
STORAGE, INDOOR
TEMPORARY USES



- [illegible]

GENERAL NOTES

- 1) THE SUBJECT PROPERTY HAS BEEN PREVIOUSLY DEVELOPED WITH A 5,742 SQUARE FOOT RETAIL CENTER AND 30 PARKING SPACES.
- 2) THE EXISTING DEVELOPMENT ORIGINALLY RECEIVED CPO ZONING APPROVAL IN JUNE, 1992 PURSUANT TO ZONING RESOLUTION Z-92-017.
- 3) THE SUBJECT PROPERTY DOES NOT CONTAIN ANY KNOWN HISTORICAL OR ARCHAEOLOGICAL SITES.
- 4) THE SUBJECT PROPERTY LIES APPROXIMATELY 250 FEET EAST OF THE JOHN WATERS BLANCH TROLLEY ROUTE WHICH RUNS ALONG ESTERO BOULEVARD.

RECEIVED
JAN 10 2003
COMMUNITY DEVELOPMENT

212-6667